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14 REPORTING and WILL EVANS

15
16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO

19 THE CENTER FOR INVESTIGATIVE
20 REPORTING and WILL EVANS,

21 Plaintiffs,

22 v.

23 UNITED STATES DEPARTMENT OF
24 LABOR,

25 Defendant.

Case No. 3:22-cv-07182-WHA

**DECLARATION OF AARON R. FIELD
IN SUPPORT OF STIPULATION AND
[PROPOSED] ORDER RE: TIME TO
FILE MOTION FOR ATTORNEY'S FEES
AND COSTS**

1 I, AARON R. FIELD, declare:

2 1. I am a Partner at the law firm of Cannata O'Toole & Olson LLP and
3 counsel of record for plaintiffs The Center for Investigative Reporting ("CIR") and Will
4 Evans ("Mr. Evans") (collectively, "plaintiffs") in this action. I make this declaration
5 based on my own personal knowledge and, if called to testify, I could and would testify to
6 the matters set forth below.

7 2. This declaration responds to Civil L.R. 6-2(a)(1)-(3) and Civil L.R. 54-5.

8 3. Plaintiffs and defendant United States Department of Labor ("defendant"
9 or "DOL") previously stipulated to a 30-day extension of defendant's time to answer or
10 respond to plaintiffs' complaint, Dkt. No. 10, two extensions of the parties' summary
11 judgment briefing schedule (approved by the Court), Dkt. Nos. 28-31, and a clarification
12 of defendant's filing deadline for its summary judgment opposition/reply (approved by the
13 Court), Dkt. Nos. 40-41.

14 4. More recently, plaintiffs and defendant stipulated to an extension of
15 defendant's production deadline set forth in the Court's December 22, 2023 order to
16 February 20, 2024, and an extension of plaintiffs' time to file a motion for attorney's fees
17 and costs (to the extent plaintiffs' time to file ran from the Court's December 22, 2023
18 summary judgment order or started running between the date of the stipulation and March
19 21, 2024) to March 21, 2024. Dkt. No. 52. The Court approved this stipulation. Dkt. No.
20 53.

21 5. Defendant appealed and moved to stay the production deadline in the
22 Court's summary judgment order pending appeal on February 15, 2024, Dkt. Nos. 57-58.
23 On February 16, 2024, the Court temporarily stayed the compliance deadline pending a
24 further ruling, Dkt. No. 59, and authorized plaintiffs to file an opposition. Plaintiffs
25 opposed the motion, and requested in their opposition, among other things, that if
26 defendant's motion was granted, plaintiffs' deadline to move for fees and costs should
27 also be extended until after appellate proceedings are complete. Dkt. No. 60. The Court's
28

1 temporary stay remains in effect as the Court has not yet issued a final order on the stay motion.

2 6. The stipulated time modification should be granted. Without it, if plaintiffs
3 prevail on appeal, plaintiffs could, at least as a practical matter, end up having to move for and
4 litigate the issue of attorney's fees and costs based on the Court's December 22, 2023 order twice
5 in this case – before and after defendant's appeal – rather than once, increasing the amount of
6 "fees-on-fees" plaintiffs would incur and seek in a way that, under the circumstances presented,
7 would not be in the interest of justice or judicial economy. Authorizing plaintiffs to seek fees after
8 the Ninth Circuit's mandate issues in defendant's pending Ninth Circuit appeal, and thereby
9 delaying any fee litigation until after defendant's Ninth Circuit appeal has been adjudicated,
10 would address this issue. It would also enable plaintiffs and defendant to meet and confer with
11 maximum effectiveness on fees, as their meet and confer efforts would be informed by the Ninth
12 Circuit's decision.

13 7. The stipulated time modification should have no effect on the schedule for this
14 case except as set forth in the stipulation.

15 I declare under penalty of perjury under the laws of the United States of America that the
16 foregoing is true and correct.

17 Executed this 18th day of March, 2024 at San Francisco, California.

18
19 /s/ Aaron R. Field
AARON R. FIELD